

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:)	
TWA INC. POST CONFIRMATION ESTATE,)	Bank. No. 01-56(PJW)
Debtor.)	
HERBERT MCMILLIAN,)	
Appellant,)	
v.)	Civ. No. 08-180-SLR
TRANS WORLD AIRLINES, INC., et al.,)	
Appellees.)	

ORDER

At Wilmington this 12th day of May, 2008, having reviewed the notice of appeal filed by appellant Herbert McMillian;

IT IS ORDERED that said appeal is dismissed, for the reasons that follow:

1. Appellant, a pro se litigant, has neither paid the filing fee nor filed the appropriate motion to proceed in forma pauperis.
2. Appellant is not contesting the orders of the bankruptcy court attached to his notice of appeal,¹ but is yet again seeking "to compel the respective part[ies] Trans

¹A December 12, 2007 order extending the term of the estate and a December 13, 2007 order granting relief sought in the forty-fifth substantive omnibus objection to claims. With respect to the latter order, the bankruptcy court notes that no objection to the relief sought in the omnibus objection was filed, the claim having been filed by

Exhibit ~ A ~

Date 5-13-08
Docket # 5955

World Airlines Inc. ("TWA") and Hartford Insurance Group ("HIG") and U.S. Trustee's . . .
 . [to] Reinstate, Retroactive and Continue past and future back Payments of the
 reinsurance benefits to retiree Herbert McMillian, as Field Manager employee
 Individual. . . ." (D. I. 1)

3. Appellant has filed two other appeals in connection with this estate, McMillian v. Transworld Airlines, Civ. No. 02-020-GMS (D. Del.)² and In re McMillian, Civ. No. 06-44 (D. Del.)³. His appeal of the two identified orders, which have nothing to do with his complaint, is frivolous and an abuse of the judicial process.


 United States District Judge

Orbital No. 1 Ltd.

²McMillian's pro se motion to withdraw the reference was denied on July 17, 2002 and the appeal dismissed for lack of appellate jurisdiction on April 14, 2003. (D.I. 13,18)

³McMillian filed a pro se appeal from the bankruptcy court's order entered on November 22, 2005. (D.I. 1) The court dismissed the action for lack of subject matter jurisdiction. (D.I. 14) McMillian's appeal to the Third Circuit was denied as frivolous pursuant to § 1915(e)(2)(B). (D.I. 26) According to the Court:

McMillian filed proofs of claim in the Chapter 11 bankruptcy of Trans World Airlines, Inc. The bankruptcy court disallowed and expunged those claims in 2003, and McMillian does not appear to have appealed from that order. Instead, he continued to file various documents in the bankruptcy court that did not pertain to any pending claim. Finally, on November 22, 2005, the bankruptcy court entered an order denying relief on McMillian's filings and directing him to refrain from filing additional pleadings in that proceeding.

(D.I. 26-2)

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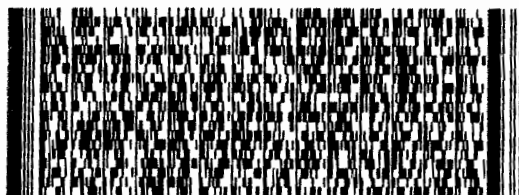
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Pachulski, Stang, Ziehl, Young, Jones & Weintraub

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919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, DE 19899-8705

TO

Via Overnight Delivery
(Herbert McMillian)
Mr. Herbert McMillian
179-17 Anderson Road
St. Albans, NY 11434
12

CERTIFICATE OF SERVICE

I, the undersigned, Herbert McMillian, pro Se for the Creditor - Appellant, certify that I, served or cause to be filed on the 11 day of June 2008 a copy of the foregoing relevant evidentiary document's:

1). Notice of Appeal

2). Affidavit to Proceed without Prepayment of Fees and Costs

3). Order - Exhibit -A-

upon the following *identified* parties in interest the manner indicated: as required by Fed. R. Civ. P. 5(b)(1);

Method of Service:[check mark] ☐ U.S. Mail or ☒ Fax or ☐ Personal or Other:

TWA, Inc. Post Confirmation Estate / Debtors / Appellees / Counsels of Record

Pachulski, Stang, Ziehl, & Jones LLP	-and- TWA, Inc. Post Confirmation Estate
James E, O'Neill, Esq.	Jill M. Farmer, General Counsel
919 North Market Street	P.O. Box 12247
Wilmington, DE 19899-8705	Kansas City, MO 64152

[Its Recipients list Rule 2002] of Bankruptcy Procedure

and

[x] **Personal Service:** served and filed the original documents on day 12 of June 2008.

Witness(es)

Sue L. Robinson, Chief Judge
United States District Court / DE
844 King Street
Wilmington, DE 19801

-and- Peter J Walsh, Appointed Judge *-(recusal)*
United States Bankruptcy Court
824 Market Street
Wilmington, DE 19899

Dated: Execution, June 12, 2008

x 

Herbert McMillian,

Pro Se for Appellant

179-17 Anderson Road
St. Albans, NY 11434
(718) 723-4693

Declaration of;

[Pursuant to 28 USC-1746]

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